



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

[FHWA Docket no. FHWA-2011-0125]

Section 4(f) Policy Paper

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; Request for comments.

SUMMARY: This is a notice and request for comments on a draft Section 4(f) Policy Paper that will provide guidance on the procedures the FHWA will follow when approving the use of land from publicly owned public parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites for Federal highway projects.

DATES: Comments must be received on or before [Insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590, or fax comments to (202) 493-2251.

Alternatively, comments may be submitted to the Federal eRulemaking portal at <http://www.regulations.gov>. All comments must include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name

of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). Anyone may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78), or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For questions about the notice discussed herein, contact Ms. MaryAnn Naber, Federal Preservation Officer, FHWA Office of Planning, Environment, and Realty, (202) 366-2060, or via e-mail at MaryAnn.Naber@dot.gov. For legal questions, please contact Ms. Diane Mobley, Attorney Advisor, FHWA Office of the Chief Counsel, (202) 366-1366, or via e-mail at Diane.Mobley@dot.gov. Business hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at: <http://www.regulations.gov>. The Web site is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from Office of the Federal Register's home page at: http://www.archives.gov/federal_register and the Government Printing Office's Web page at: <http://www.fdsys.gov>. Late comments will be considered to the extent practicable.

Background

A copy of the proposed Section 4(f) Policy Paper is available for download and public inspection under the docket number noted above at the Federal eRulemaking portal at: <http://www.regulations.gov>. The FHWA invites comments on the proposed policy paper. The FHWA requests that commenters cite the page number of the policy paper for which each specific comment to the docket is concerned, to help make the FHWA's docket comment review process more efficient.

The Section 4(f) Policy Paper was written primarily to aid FHWA personnel with administering Section 4(f) in a consistent manner across the country and is intended to supplement the FHWA's regulations governing Section 4(f). Section 4(f) concerns the use of land from publicly owned parks, recreation areas, wildlife and waterfowl refuges, and public or private historic sites for Federal highway projects. Although these requirements are now codified at 23 U.S.C. 138 and 49 U.S.C. 303, the subject matter remains commonly referred to as "Section 4(f)" because the requirements originated in Section 4(f) of the Department of Transportation Act of 1966 (Pub. L. 89-670, 80 Stat. 931). The FHWA's Section 4(f) regulations, entitled "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," were promulgated in 2008 and are codified at 23 CFR Part 774. When finalized, this draft Section 4(f) Policy Paper will replace the previous Section 4(f) Policy Paper that was issued by FHWA in 2005. Congress amended Section 4(f) in Section 6009 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, Aug. 10, 2005, 119 Stat. 1144). This draft Section 4(f) Policy Paper incorporates the changes required by Section 6009 of SAFETEA-LU and the 2008 regulations.

Comments on the draft Section 4(f) Policy Paper are welcome from any interested party, including highway project applicants; Federal, State, and local resource agencies; industry trade groups; environmental organizations; and the general public. The FHWA will consider all comments received during the comment period prior to finalizing the Section 4(f) Policy Paper.

(Authority: 23 U.S.C. 101, 109, 138 and 139; 23 CFR 1.32 and 774; 49 U.S.C. 303; and, 49 CFR 1.48(b)).

Issued on: December 21, 2011

Victor M. Mendez
Administrator

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